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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,332	01/23/2001	David Lahiri Bhatoolaul	14-28-6-1-19	9373

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EXAMINER	
DANIEL JR, WILLIE J	
ART UNIT	**PAPER NUMBER**
2686	

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/767,332	BHATOOLAUL ET AL.	
	Examiner	Art Unit	
	Willie J. Daniel, Jr.	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's RCE filed 28 October 2004 and amendment filed on 16 August 2004. **Claims 1-5** are now pending in the present application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 October 2004 has been entered.

Oath/Declaration

3. The objection to the declaration is withdrawn, as the proposed declaration correction is approved.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by **Ljung (US 6,078,813)**.

Regarding **Claim 1**, Ljung discloses a mobile communications system (10) which reads on the claimed "cellular radio telecommunications network" comprising

a base transceiver station (BTS1 12) which reads on the claimed "first base station (see Figs. 1A-C); and

a second base station (BTS2 14), in which communications between a mobile station (MS 16) in a first cell and the first base station (12) are handed to the second base station (14) as the mobile station (16) enters a target cell (14) which reads on the claimed "second cell" under control of a base station controller (BSC 15) which reads on the claimed "radio network controller", wherein the second base station (14) receives information (102) from the radio network controller (15) to send downlink data to the mobile station (16) and receives uplink data (110) (e.g., handover access message or H/O ACC) from the mobile station (16), wherein the second base station first receives the information (102) from the radio network controller (15) then receives an uplink frame (110) from the mobile station (16) and only then sends the downlink data (114a, 114b) to the mobile station (16) (see col.

3, lines 3-22; col. 2, lines 18-52; Figs. 1A-2), where the BSC (15) transmits a message (102) to BTS2 (14) and the MS (16) transmits a message (110) to BTS2 (14) that is followed by a message (114b) transmitted from BTS2 (14) to MS(16).

Regarding **Claim 2**, Ljung discloses a network (10) as claimed in claim 1 further comprising:

means (15) for detecting power level of signals received from the mobile station (16) (see col. 2, lines 21-28,48-52; col. 4, lines 28-31; Figs. 1-2), where the system checks the output power of the MS (16) and radio environment, and

wherein the second base station (114b) is controlled to send downlink data (114b) to the mobile station (16) only when the uplink frame (110) is received at a detected power level exceeding a power level set by the radio network controller (15) (see col. 3, lines 3-22; col. 4, lines 28-31; col. 2, lines 18-52; Figs. 1A-2), where the BSC (15) selects a better cell for handover of the MS (16) according to predetermined power level (e.g., C/I and/or C/N).

Regarding **Claim 3**, Ljung discloses a method of operation a cellular radio telecommunications network (10) comprising the steps of

handing off communications between a mobile station (16) in a first cell and a first base station (12) to a second base station (14) as the mobile station (16) enters a second cell (14) under control of a radio network controller (16) (see col. 2, lines 42-52,18-28; Figs. 1A-2); and

controlling the second base station (14), in response to information (102) from the radio network controller (15), to receive an uplink frame (110) from the mobile station (16) and only then send downlink data (114a) to the mobile station (16) (see col. 3, lines 3-22; col. 2,

lines 18-52; Figs. 1A-2), where the BSC (15) transmits a message (102) to BTS2 (14) and the MS (16) transmits a message (110) to BTS2 (14) that is followed by a message (114b) transmitted from BTS2 (14) to MS(16).

Regarding **Claim 4**, Ljung discloses a method as claimed in claim 3 comprising the additional step of:

detecting the power level of signals received from the mobile station (16) (see col. 2, lines 21-28,48-52; col. 4, lines 28-31; Figs. 1-2), where the system checks the output power of the MS (16) and radio environment; and

controlling the second base station (14) to send downlink data (114b) to the mobile station (16) only when the uplink frame (110) is received at a detected power level exceeding a power level set by the radio network controller (15) (see col. 3, lines 3-22; col. 4, lines 28-31; col. 2, lines 18-52; Figs. 1A-2), where the BSC (15) selects a better cell for handover of the MS (16) according to predetermined power level (e.g., C/I and/or C/N).

Regarding **Claim 5/3**, a computer program for carrying out the method step of claim 3 is rejected for the reason set forth above in the rejection of claim 3.

Regarding **Claim 5/4**, a computer program for carrying out the method step of claim 4 is rejected for the reason set forth above in the rejection of claim 4.

Response to Arguments

5. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

   a. Shimizu et al. (US 4,989,204) discloses a "High Throughput Communication Method and System For a Digital Mobile Station When Crossing a Zone Boundary During a Session".

   b. Wejke et al. (US 5,175,867) discloses a "Neighbor-Assisted Handoff In a Cellular Communications System".

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marsha D Banks-Harold

MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

WJD,JR
03 February 2005